

REMARKS

Claims 21-54 are pending in the above-reference application. Claims 21-36 and 42 stand rejected under 35 U.S.C. §112, second paragraph. Claims 21-25, 27-32, 34-41 and 43-54 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,814,070 to Borzone et al. (hereinafter “Borzone”) in view of U.S. Patent No. 6,168,598 to Martello (hereinafter “Martello”). Claims 26 and 33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Borzone in view of Martello in further view of U.S. Patent No. 6,569,186 to Winters, et al. (hereinafter “Winters”).

Applicants appreciate the in-person interview courteously granted by the Examiner on 28 April 2010. In the interview Applicants discussed the claims relative to the §112 rejection and the Examiner agreed that the proposed amendment would overcome the rejection. Claim 55 has been added to more clearly define the subject matter of the invention and to overcome the §112 rejection against claims 37 and 42. The Applicants also discussed the claims relative to the cited references. Applicants and Examiner agreed that reciting greater detail with regard to the channel of the device may overcome the cited art. Claim 55 has been added to more clearly define the subject matter of the invention and to overcome the §112 rejection against claims 37 and 42. Applicants assert that no new matter has been added to the application as filed.

By this paper, Applicants have amended claims 21, 29, 34, 37, and 45 to recite additional structural limitations that clearly distinguish over the cited art. Applicants respectfully assert that claims 21-55 are in condition for allowance.

REJECTION OF CLAIMS 21-36 AND 42 UNDER 35 U.S.C. § 112 SECOND PARAGRAPH

Claims 21-36 and 42 stand rejected under 35 U.S.C. §112, second paragraph. By this paper claims 21 and 29 have been amended to more particularly define the subject matter of the invention by reciting, “the first suture port is independently fully encircled and uninterrupted by a first interior surface along a portion of its length and the second suture port is independently fully encircled and uninterrupted by a second interior surface along a portion of its length.” This amendment provides clarity that each suture port is encircled and uninterrupted and that the first and second suture ports

do not intersect. In addition, claim 37 has been amended and claim 55 added to remedy the contradiction previously recited in claims 37 and 42. For these reasons, Applicant respectfully request withdrawal of the rejection.

REJECTION OF CLAIMS 21-25, 27-32, 34-41 AND 43-54 UNDER 35 U.S.C. § 103(a) OVER BORZONE IN VIEW OF MARTELLO

Claims 21-25, 27-32, 34-41 and 43-54 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Borzone in view Martello. By this paper, claims 21, 29, 37 and 45 have been amended to more distinctly claim the subject matter which Applicants regard as their invention.

By way of example, claim 21 now recites, “a channel near the proximal end of the elongated body, wherein the channel is formed within the exterior sidewall of the elongated body.” Support for this claim amendment is found at least in Applicants specification, Figures 5 and 7 and the accompanying text. Borzone fails to disclose such a channel formed within the elongated body of an anchor. Borzone discloses a slot (38) that extends from the head of the anchor; however, the slot is not defined within an “*exterior sidewall of the elongated body*” (emphasis added) of the anchor because the slot is not recessed within the sidewall of the elongated body, but rather is simply a part of and not separate from the first thread. *Borzone*, Column 3, line 66 thru Column 4 line 23, and Figure 6.

Likewise Martello fails to disclose the channel within the exterior sidewall of the anchor. Martello appears to exclusively disclose multiple anchor holes (36, 46) for passage of a suture. *Martello*, Column 4, lines 30-46, and Figures 1-3. Furthermore Martello makes no disclosure of the channel as “formed within the exterior sidewall of the *elongated body*” (emphasis added) of the anchor; rather, Martello only discloses anchor holes in the head (11) of the anchor. *Id.* and Column 5, lines 1-4.

For the reasons set forth above claim 21, as amended, is patentable over the cited combination. Similar amendments can be found to independent claims 29, 37 and 45 and they are, therefore, patentable over the cited art as well. Claims 22-25 and 27-28, depend from claim 21, and claims 30-32 and 34-36 depend from claim 29, and claims 38-41, 43-44 and newly added claim 55 depend from claim 37, and claims 46-54 depend from claim 45 and as such each dependent claim is

patentable over the cited art for the same reasons presented herein. Applicants assert that these claims are in condition for allowance and respectfully request withdrawal of the rejection.

Since claim 21 recites features that are not found in either Borzone or Winters they are patentable over the cited combination. Claims 22-24 and 26-28 depend from claim 21 and are therefore patentable for the same reasons supplied above. Applicants respectfully request withdrawal of the rejection.

REJECTION OF CLAIMS 26 AND 33 UNDER 35 U.S.C. § 103(a) OVER BORZONE IN VIEW OF MARTELLO IN FURTHER VIEW OF WINTERS

Claims 26 and 33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Borzone in view of Martello in further view of Winters. Claim 26 depends from claim 1 and claim 33 depends from claim 29 and both are patentable over Borzone and Martello for the reasons set forth previously herein.

Similar to Borzone and Martello, Winters fails to disclose “a channel near the proximal end of the elongated body, wherein the channel is formed within the exterior sidewall of the elongated body.” Winters discloses suture slots (40) and fillets (68, 70) all in the fixation device (20). The fixation device interacts with a screw (22) by passing the screw through a bore in the fixation device.

Winters, Column 3, line 6-9, and Figures 1 and 7. Neither the fixation device nor the screw includes a channel formed in the “*exterior sidewall of the elongated body*” (emphasis added). Rather, Winters discloses that a suture is to wrap “around” the screw and no disclosure is made to a channel “formed within” the sidewall of the body of the screw. *Winters*, Column 3, lines 59-61, and Figure 7.

Claims 26 and 33, which depend from claims 21 and 29 respectively, are patentable for those reasons set forth above, and the reasons previously set forth herein. Withdrawal of the rejection is respectfully requested.

CONCLUSION

For the reasons set forth above, Applicants respectfully assert that claims 21-55 are in condition for allowance. If there are any remaining issues preventing mailing of a Notice of

Allowance, the Examiner is respectfully requested to contact the undersigned.

Dated this 21st day of May 2010.

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